

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 4th day of February, two thousand eleven.

PRESENT:

DENNIS JACOBS,
Chief Judge,
ROBERT D. SACK,
GERARD E. LYNCH,
Circuit Judges.

SOHEL AHMED,
Petitioner,

v.

09-4829-ag
NAC

ERIC H. HOLDER, JR., UNITED STATES
ATTORNEY GENERAL,
Respondent.

FOR PETITIONERS: Usman B. Ahmad, Long Island City,
New York.

FOR RESPONDENT: Tony West, Assistant Attorney
General; James E. Grimes, Senior
Litigation Counsel; Lindsay B.

1 **Glauner, Trial Attorney, Office of**
2 **Immigration Litigation, Civil**
3 **Division, United States Department**
4 **of Justice, Washington, D.C.**

1 UPON DUE CONSIDERATION of this petition for review of a
2 decision of the Board of Immigration Appeals ("BIA"), it is
3 hereby ORDERED, ADJUDGED, AND DECREED, that the petition for
4 review is DENIED.

5 Sohel Ahmed ("Ahmed"), a native and citizen of
6 Bangladesh, seeks review of an October 20, 2009, order of
7 the BIA, affirming the January 10, 2008, decision of
8 Immigration Judge ("IJ") Philip L. Morace, denying Ahmed's
9 motion to reopen his removal proceedings. *In re Ahmed*, No.
10 A073 669 008 (B.I.A. Oct. 20, 2009), *aff'g* No. A073 669 008
11 (Immig. Ct. N.Y. City Jan. 10, 2008). We assume the
12 parties' familiarity with the underlying facts and
13 procedural history of the case.

14 We review the denial of a motion to reopen for abuse
15 of discretion. See *Ali v. Gonzales*, 448 F.3d 515, 517 (2d
16 Cir. 2006). When the BIA, as it did here, "adopts the
17 decision of the IJ and merely supplements the IJ's decision
18 . . . we review the decision of the IJ as supplemented by
19 the BIA." See *Yan Chen v. Gonzales*, 417 F.3d 268, 271 (2d
20 Cir. 2005).

1 An alien who has been ordered removed may file one
2 motion to reopen, but must do so within ninety days of the
3 final administrative decision. 8 U.S.C.
4 § 1229a(c)(7)(C)(i). Ahmed concedes that his October 2007
5 motion to reopen, filed more than eleven years after the
6 entry of his August 1996 final order of removal, was
7 untimely. See *id.*; 8 C.F.R. § 1003.2(c)(2). To overcome
8 this limitation, Ahmed was required to demonstrate changed
9 country conditions material to his asylum application.
10 8 U.S.C. § 1229a(c)(7)(C)(ii). The agency concluded that he
11 failed to do so. We review the agency's factual findings
12 regarding changed conditions for substantial evidence. *Jian*
13 *Hui Shao v. Mukasey*, 546 F.3d 138, 169 (2d Cir. 2008).

14 The IJ reasonably found that Ahmed's evidence - a
15 letter from his brother recounting abuse family members had
16 suffered due to their involvement in the Awami League
17 political party, a personal affidavit reiterating the
18 factual allegations contained in the letter, and background
19 evidence discussing country conditions in Bangladesh - did
20 not demonstrate a change in country conditions material to
21 Ahmed's claim for relief. See *Xiao Ji Chen v. U.S. Dep't of*
22 *Justice*, 471 F.3d 315, 342 (2d Cir. 2006) (explaining that

1 the weight afforded certain evidence is "largely within the
2 discretion of the IJ" (internal quotation marks omitted)).

3 As the agency found, the letter and affidavit have only
4 minimal relevance because the members of Ahmed's family who
5 were attacked are not similarly situated to Ahmed, who has
6 not lived, or been politically active, in Bangladesh since
7 1993. See *Jian Hui Shao*, 546 F.3d at 160-61 (upholding
8 BIA's conclusion that reports detailing forced sterilization
9 of individuals not similarly situated to petitioner were
10 immaterial). Furthermore, the three-paragraph letter in
11 question contained only the barest allegation that Ahmed
12 would face persecution if he returned to Bangladesh.
13 Therefore, the BIA acted within its discretion when it chose
14 "what seem[ed] to [it] to be the most reasonable inference"
15 from the evidence presented. *Siewe v. Gonzales*, 480 F.3d
16 160, 167 (2d Cir. 2007), quoting *Lavender v. Kurn*, 327 U.S.
17 645, 653 (1946).¹ As a result, the agency reasonably
18 determined that Ahmed failed to establish a material change

¹ In his brief to this Court, Ahmed does not rely on the newspaper articles and other background material he had submitted to the IJ. He has thus abandoned any claim that these documents establish a material change in condition in Bangladesh. See *Yueqing Zhang v. Gonzales*, 426 F.3d 540, 545 n.7 (2d Cir. 2005) (holding that issues not sufficiently argued in the briefs are considered waived and normally will not be addressed on appeal).

1 in country conditions and properly denied his motion to
2 reopen. See 8 C.F.R. § 1003.2(c)(2), (c)(3)(ii); *Jian Hui*
3 *Shao*, 546 F.3d at 161-62. Accordingly, we need not reach
4 Ahmed's argument that he is prima facie eligible for relief.
5 See 8 U.S.C. § 1229a(c)(7)(C)(ii); 8 C.F.R.
6 § 1003.2(c)(3)(ii).²

7 For the foregoing reasons, the petition for review is
8 DENIED. As we have completed our review, any stay of
9 removal that the Court previously granted in this petition
10 is VACATED, and any pending motion for a stay of removal in
11 this petition is DISMISSED as moot.

12 FOR THE COURT:
13 Catherine O'Hagan Wolfe, Clerk
14
15

The image shows a handwritten signature in blue ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal is divided into two halves: the top half is red with the words "UNITED STATES" and "SECOND CIRCUIT" in white, and the bottom half is blue with the words "COURT OF APPEALS" in white. There are small white stars on either side of the text in the red section.

² Shortly after the IJ's decision denying Ahmed's motion to reopen, the Awami League won an overwhelming victory in national elections in Bangladesh. U.S. Dep't of State, 2009 Human Rights Report: Bangladesh (Mar. 11, 2010). Ahmed's claim that he would be persecuted because of his family's association with that party thus rings particularly hollow under present conditions.